



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18<sup>TH</sup> STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

2005 APR -8 AM 10:51

FILED  
EPA REGION VIII  
HEARING CLERK

DOCKET NO.: SDWA-08-2005-0007

IN THE MATTER OF:

CITY OF NEWCASTLE

10 West Warwick

Newcastle, WY 82701

RESPONDENT

)  
)  
) **FINAL ORDER**  
)  
)  
)  
)

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

April 8, 2005  
DATE

Alfred C. Smith  
Alfred C. Smith  
Regional Judicial Officer

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

2005 APR -8 AM 10:51

<b>In the Matter of:</b>	)	<b>Docket No. SDWA-08-2005-0007</b>
	)	
<b>City of Newcastle</b>	)	<b>Proceedings under section 1414(g) of</b>
<b>10 West Warwick</b>	)	<b>the Safe Drinking Water Act,</b>
<b>Newcastle, WY 82701</b>	)	<b>42 U.S.C. § 300g-3(g),</b>
<b>Respondent</b>	)	<b>PWS ID # 5600256</b>

**CONSENT AGREEMENT**

Complainant, United States Environmental Protection Agency ("EPA"), Region 8, and Respondent, the City of Newcastle, Wyoming, by their undersigned attorneys, hereby consent and agree as follows:

1. On January 5, 2005, EPA issued an Administrative Complaint ("Complaint") alleging that the Respondent had violated certain provisions of the National Primary Drinking Water Regulations (NPDWRs), 40 C.F.R. part 141, promulgated under the authority of the Safe Drinking Clean Water Act (the "Act" or "SDWA"), 42 U.S.C. § 300f *et seq.* The Complaint proposed an administrative civil penalty for these alleged violations, under section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g).

2. Pursuant to 40 C.F.R. § 22.18(b)(2), the Respondent admits the jurisdictional and factual allegations of the Complaint.

3. The Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint. It also waives its right to appeal any final order resulting from this Consent Agreement ("Agreement").

4. This Agreement, upon incorporation into a final consent order, will apply to and be binding upon EPA and upon the Respondent and the Respondent's successors and assigns. This Agreement contains all terms of the settlement agreed to by the parties.

5. The Respondent consents and agrees to pay a civil penalty in the amount of eighty-five hundred dollars (\$8,500.00) no later than May 30, 2005. The payment shall be made by remitting a cashier's or certified check for the full amount, including the name and docket number of this case, payable to "Treasurer, United States of America," to:

Mellon Bank  
P.O. Box 360859  
Pittsburgh, PA 15251-6859

Any payment made via overnight delivery shall be sent to:

U.S. EPA, 360859  
Mellon Bank  
Client Service Center, Room 154-0670  
500 Ross Street  
Pittsburgh, PA 15262-0001

A copy of the check and any enclosed documentation shall be sent simultaneously to:

Kathelene Brainich (8ENF-W)  
Environmental Protection Specialist  
U.S. EPA Region 8  
999 18<sup>th</sup> Street, Suite 300  
Denver, CO 80202-2466

and

Tina Artemis (8RC)  
Regional Hearing Clerk  
U.S. EPA Region 8  
999 18<sup>th</sup> Street, Suite 300  
Denver, CO 80202-2466

6. The payment will be considered late if it is not received by Mellon Bank on the stated due date. It must be received by 11:00 a.m. EST to be considered as received that day.

7. If payment is not received by the specified due date, an additional amount of interest shall accrue from the payment due date at a rate established by the Secretary of the

Treasury pursuant to 31 U.S.C. § 3717. Interest will continue to accrue until the payment is received in full.

8. In addition to the accrual of interest specified in Paragraph 7 of this Agreement, a handling charge of fifteen dollars (\$15.00) shall be assessed the 61<sup>st</sup> day from the date the penalty is due, and each subsequent 30-day period that the penalty, or any portion thereof, remains unpaid. Any payment is first applied to accrued interest, penalty and/or handling charge; the balance is then applied to the outstanding principal amount.

9. Nothing in this Agreement shall relieve the Respondent of its duty to comply with the SDWA and its implementing regulations.

10. Failure by the Respondent to comply with any of the terms of this Agreement shall constitute a breach of this Agreement and may result in referral of the matter to the United States Department of Justice for enforcement of this Agreement and for such other relief as may be appropriate.

11. Nothing in this Agreement shall be construed as a waiver by EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of any failure of the Respondent to comply with this Agreement.

12. The parties agree to submit this Agreement to the Regional Judicial Officer for EPA Region 8, with a request that it be incorporated into a final consent order.

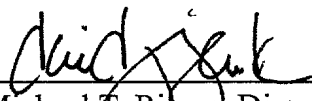
13. Each party shall bear its own costs and attorneys' fees in this matter.

14. This Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the penalties sought in the Complaint.

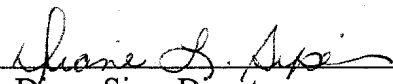
15. The undersigned representative of the Respondent certifies that he is fully authorized to enter into this Agreement and to bind the Respondent to its terms.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,  
Complainant

Date: 30 March 2005

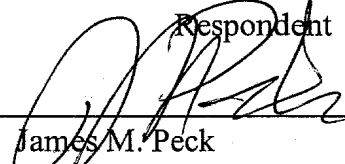
By:   
Michael T. Risner, Director  
David J. Janik  
Supervisory Enforcement Attorney  
Legal Enforcement Program

Date: 30 March 2005

By:   
Diane Sipe, Director  
Water Technical Enforcement Program

CITY OF NEWCASTLE, WYOMING,  
Respondent

Date: April 5, 2005

By:   
James M. Peck  
Hansen and Peck  
18 West Main Street  
Newcastle, WY 82701

Counsel for Respondent

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **CITY OF NEWCASTLE, DOCKET NO.: SDWA-08-2005-0007** was filed with the Regional Hearing Clerk on April 8, 2005.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Margaret "Peggy" Livingston, Enforcement Attorney, U. S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on April 8, 2005, to:

James M. Peck  
Hansen and Peck  
18 West Main Street  
Newcastle, WY 82701

And hand-carried to:

Honorable Alfred C. Smith  
Regional Judicial Officer (8RC)  
U. S. Environmental Protection Agency  
999 18<sup>th</sup> Street, Suite 300  
Denver, CO 80202-2466

April 8, 2005

  
Tina Artemis  
Regional Hearing Clerk



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